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10/807,786	03/23/2004	Robert B. Black	062891.1246	4306
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BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER RYMAN, DANIEL J	
			ART UNIT 2616	PAPER NUMBER
			NOTIFICATION DATE 10/17/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

10/807,786

Applicant(s)

BLACK, ROBERT B.

Examiner

Daniel J. Ryman

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 11-21 and 23-31 is/are rejected.
- 7) ☒ Claim(s) 1-4, 6, 10, 11, 16, 18, 22-24, 29 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br/>Paper No(s)/Mail Date _____</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/>Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6) <input type="checkbox"/> Other: _____</p> |
|---|--|

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: on page 12, line 26 “database 64” should be “database 66” to comply with Fig. 2 and on page 20, line 19 “DSL chip 354” should be “DSL chip 54” to comply with Fig. 2.

Appropriate correction is required.

### *Claim Objections*

2. Claim 1 is objected to because of the following informalities: in line 15, “with the each parameter” should be “with one of the plurality of parameters” because it is unclear which parameter “the each parameter” specifies; in lines 16-17, “transmitting the each parameter” should be “transmitting the connection’s corresponding parameter” because it is unclear which parameter “the each parameter” specifies; in line 18, “the each parameter” should be “the corresponding parameter”; in line 19, “connections as having” should be “connections having”; in line 22, “identifying one of the parameters” should be “identifying the parameter” since there is a one-to-one correspondence between parameters and connections such that only one parameter corresponds to each connection; and in line 27, “using a communications setting” should be “using the at least one connection setting” since the claim previously refers to the correlation between the parameter and at least one connection setting. Appropriate correction is required.
3. Claim 2 is objected to because of the following informalities: in line 3, “and further” should be “and the method further”; in lines 4-5, “identifies one of the parameters” should be “identified parameter”; in lines 17-18, “the communications setting” should be “the at least one

connection setting”; and in lines 18-19, “identified one of the parameters” should be “identified parameter”. Appropriate correction is required.

4. Claim 3 is objected to because of the following informalities: in line 3, “connections as having” should be “connections having”. Appropriate correction is required.

5. Claim 6 is objected to because of the following informalities: in line 15, “identifying one of the parameters” should be “identifying the parameter” because the claim previously provides that each connection corresponds with one parameter. Appropriate correction is required.

6. Claim 11 is objected to because of the following informalities: in lines 2-3, “selecting one of the connections” should be “selecting the connection” since presumably only one connection has the “fastest” data rate. Appropriate correction is required.

7. Claim 16 is objected to because of the following informalities: in line 3, “and further” should be “and the method further”. Appropriate correction is required.

8. Claim 18 is objected to because of the following informalities: in line 21, “identify one of the parameters” should be “identify the parameter” because the claim previously provides that each connection corresponds with one parameter. Appropriate correction is required.

9. Claim 22 is objected to because of the following informalities: in line 1, “wherein the each” should be “wherein each”. Appropriate correction is required.

10. Claim 23 is objected to because of the following informalities: in line 2, “select one of the connections” should be “select the connection” since presumably only one connection has the “fastest” data rate. Appropriate correction is required.

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11. Claim 24 is objected to because of the following informalities: in line 2, “select one of the connections” should be “select the connection” since presumably only one connection has the “highest” SNR. Appropriate correction is required.

12. Claim 29 is objected to because of the following informalities: in line 6, “establishment at” should be “establishment of at”. Appropriate correction is required.

13. Claim 31 is objected to because of the following informalities: in lines 14-15, “identifying one of the parameters” should be “identifying the parameter” because the claim previously provides that each connection corresponds with one parameter. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claims 5, 15, 17, 27, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

16. Claim 5 recites: “wherein the plurality of parameters is a plurality of parameter sets”. Claim 1, which claim 5 depends upon, recites: “establishing a plurality of digital subscriber line connections each having a one-to-one correspondence with [one of the plurality of] parameter[s]”. It is unclear how there can be a one-to-one correspondence between each connection and a single parameter, as recited in claim 1, when each connection is tied to a “parameter set” as taught in claim 5, where a “parameter set” contains multiple parameters. In order to overcome this rejection, Applicant should either amend claims 1-4 to allow the term

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“parameter” to include “parameter set” or amend claim 5 to recite that the method further comprises correlating additional parameters to each connection where these additional parameters form the “parameter set”.

17. Claims 15 and 27 recite: “transmitting a plurality of parameters comprises consecutively transmitting the plurality of parameters, each parameter transmitted after establishing a corresponding one of the connections” (or its equivalent). Claims 6 and 18, which claims 15 and 27 depend upon, respectively, recite “transmitting a plurality of parameters” prior to “establishing a plurality of digital subscriber line connections”. The placement of these two steps in claims 6 and 18, i.e. reciting the “establishing” step subsequent to the “transmitting” step, implies that the parameters are transmitted before the connections have been established. However, claims 15 and 27 recite that the parameters are transmitted after the connections have been established. Thus, it is unclear whether the “transmitting” step occurs before or after the “establishing” step in claims 15 and 27.

18. Claim 17 recites: “establishing at least one of the plurality of digital subscriber line connections using a set of safety parameters”. Claim 6, which claim 17 depends upon, recites: “establishing a plurality of digital subscriber line connections with the communications device, each connection corresponding with a particular one of the parameters”. It is unclear how there can be a one-to-one correspondence between each connection and a single parameter, as recited in claim 6, when each connection is tied to a “parameter set” as taught in claim 17. In order to overcome this rejection, Applicant should either amend claims 6-16 to allow the term “parameter” to include “parameter set” or amend claim 17 to recite that the method further

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comprises correlating additional parameters to each connection where these additional parameters form the "parameter set".

19. Claim 29 recites: "initiate an establishment [of] at least one of the plurality of digital subscriber line connections using a set of safety parameters". Claim 18, which claim 29 depends upon, recites: "establish a plurality of digital subscriber line connections with the communications device . . . each connection corresponding with a particular one of the parameters". It is unclear how there can be a one-to-one correspondence between each connection and a single parameter, as recited in claim 18, when each connection is tied to a "parameter set" as taught in claim 29. In order to overcome this rejection, Applicant should either amend claims 18-28 to allow the term "parameter" to include "parameter set" or amend claim 29 to recite that the method further comprises correlating additional parameters to each connection where these additional parameters form the "parameter set".

***Claim Rejections - 35 USC § 102***

20. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

21. Claims 6, 12, 18, 23, 24, 30, and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Lund (USPN 7,006,452).

22. Regarding claims 6, 18, and 31, Lund discloses a method and system for establishing a communications connection, the method comprising the steps of and the system comprising

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means for: transmitting, by a digital subscriber line access multiplexer to a communications device (col. 4, lines 10-14, where the DSLAM performs the detection process), a plurality of parameters each representing a different indication of a same feature of the digital subscriber line access multiplexer and correlated with one or more communications settings (col. 6, lines 20-27, where the DSLAM transmits a plurality of initiated protocol messages, i.e. a plurality of parameters, representing a protocol, i.e. a different indication of a same feature of the DSLAM, and col. 1, lines 25-57, where the protocol is correlated with one or more communication settings); establishing a plurality of digital subscriber line connections with the communications device, each connection corresponding with a particular one of the parameters (col. 6, lines 20-27, where the testing of the DSL link, as broadly defined, “establish[es] a connection” because the CPE responds back); selecting one of the connections as meeting a predetermined criteria (col. 6, lines 20-27, where the “predetermined criteria” is a connection yielding a “correct response”); identifying the parameter that corresponds to the selected connection (col. 6, lines 20-27, where to determine if a response is correct, the DSLAM needs to know to what message the response is responding to, i.e. the DSLAM identifies the message that corresponds to the selected connection); and establishing a digital subscriber line connection with the communications device using at least one communications setting correlated with the identified parameter (col. 3, lines 3-10, where the settings related to the protocol of the initiated protocol message are used to establish a connection).

23. Regarding claims 12 and 24, Lund discloses that selecting one of the connections comprises selecting one of the connections having the highest signal to noise ratio that is within a predetermined range (col. 6, lines 20-27, where a connection that is capable of communication



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will inherently have the highest SNR with respect to other connections that are not capable of communication).

24. Regarding claim 23, Lund discloses that the program is operable to select one of the connections having the fastest data transfer rate as meeting the predetermined criteria (col. 6, lines 20-27, where a connection that is capable of communication will inherently have the fastest data transfer rate with respect to other connections that are not capable of communication).

25. Regarding claim 30, Lund inherently discloses that the program is implemented as a part of the integrated circuit chip (col. 2, line 51-col. 3, line 2, where Lund discloses that the program is implemented upon any known hardware, and where an IC chip is well known hardware).

***Claim Rejections - 35 USC § 103***

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 1, 2, 7-9, 16, 19-21, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund (USPN 7,006,452) in view of Applicant's Admitted Prior Art.

28. Regarding claim 1, 7, and 19, Lund discloses a method for establishing a communications connection, comprising: providing a digital subscriber line access multiplexer having an integrated circuit chip, the integrated circuit chip operable to form a digital subscriber line connection with a communications device (col. 2, lines 51-col. 3, line 3, where any type of hardware is used to implement the computer program and where integrated circuit chips are notorious hardware devices, and col. 1, lines 26-32, where the DSLAM establishes a connection

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with a user); consecutively transmitting a plurality of parameters by the digital subscriber line access multiplexer to the communications device, each parameter correlated with at least one connection setting (col. 6, lines 20-27, where the DSLAM transmits a plurality of initiated protocol messages, i.e. a plurality of parameters, representing a protocol, i.e. a different indication of a same feature of the DSLAM, and col. 1, lines 25-57, where the protocol is correlated with one or more communication settings); establishing a plurality of digital subscriber line connections each having a one-to-one correspondence with the each parameter, wherein each connection is established in response to transmitting the each parameter using the at least one connection setting correlated with the each parameter (col. 6, lines 20-27, where the testing of the DSL link, as broadly defined, “establish[es] a connection” because the CPE responds back); selecting one of the connections as having a data transfer rate that is greater than a particular threshold (col. 6, lines 20-27, where the connection permitting communication is selected, i.e. a connection having a data transfer rate that is greater than zero is selected); identifying one of the parameters that corresponds to the selected connection (col. 6, lines 20-27, where to determine if a response is correct, the DSLAM needs to know to what message the response is responding to, i.e. the DSLAM identifies the message that corresponds to the selected connection); and initiating, by the digital subscriber line access multiplexer, an establishment of the digital subscriber line connection with the communications device using a communications setting correlated with the identified parameter (col. 3, lines 3-10, where the settings related to the protocol of the initiated protocol message are used to establish a connection).

Lund does not expressly disclose that each parameter identifies a particular party as a manufacturer of the integrated circuit chip. Applicant teaches as prior art having a device

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identify its manufacturer as part of the initialization process to decrease interoperability problems (p. 2, lines 20-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have each parameter identify a particular party as a manufacturer of the integrated circuit chip to decrease interoperability problems.

29. Regarding claims 2, 16, and 28, Lund does not expressly disclose that the communications device is a first communications device belonging to a category, and further comprising: correlating the identified one of the parameters with the category; terminating the digital subscriber line connection with the first communications device; receiving a request to form a new digital subscriber line connection with a second communications device, the second communications device belonging to the category; determining that the second communications device belongs to the category; and in response to the determination that the second communications device belongs to the category, establishing the new digital subscriber line connection with the second communications device using the communications setting correlated with the identified one of the parameters. Applicant teaches as prior art having a device identify its manufacturer as part of the initialization process to decrease interoperability problems (p. 2, lines 20-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the communications device be a first communications device belonging to a category, and further comprising: correlating the identified one of the parameters with the category; terminating the digital subscriber line connection with the first communications device; receiving a request to form a new digital subscriber line connection with a second communications device, the second communications device belonging to the category; determining that the second communications device belongs to the category; and in response to

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the determination that the second communications device belongs to the category, establishing the new digital subscriber line connection with the second communications device using the communications setting correlated with the identified one of the parameters since this will ensure that all devices belonging to the same category can quickly establish communication.

30. Regarding claims 8 and 20, Lund discloses that an integrated circuit chip is operable to establish the plurality of digital subscriber line connections (col. 2, lines 51-col. 3, line 3, where any type of hardware is used to implement the computer program and where integrated circuit chips are notorious hardware devices, and col. 1, lines 26-32, where the DSLAM establishes a connection with a user). Lund does not expressly disclose that the same feature is a model identifier of an integrated circuit chip in the digital subscriber line access multiplexer. However, Lund does disclose that updates to a DSLAM will result in a new matching process (col. 1, lines 62-65, see also col. 5, lines 38-54). Applicant teaches as prior art having a device identify its manufacturer as part of the initialization process to decrease interoperability problems (p. 2, lines 20-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the same feature be a model identifier of an integrated circuit chip in the DSLAM to decrease interoperability problems by allowing the devices to quickly determine which protocols a given chip will support.

31. Regarding claims 9 and 21, Lund discloses that an integrated circuit chip is operable to establish the plurality of digital subscriber line connections (col. 2, lines 51-col. 3, line 3, where any type of hardware is used to implement the computer program and where integrated circuit chips are notorious hardware devices, and col. 1, lines 26-32, where the DSLAM establishes a connection with a user). Lund does not expressly disclose that the same feature is a particular

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version of ANSI T1.413 to which an integrated circuit chip in the digital subscriber line access multiplexer complies. However, Lund does disclose that updates to a DSLAM will result in a new matching process (col. 1, lines 62-65, see also col. 5, lines 38-54). Applicant teaches as prior art having a device identify its manufacturer as part of the initialization process to decrease interoperability problems (p. 2, lines 20-30). Examiner takes official notice that ANSI T1.413 is a well-known industry standard. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the same feature be a particular version of ANSI T1.413 to decrease interoperability problems by allowing the devices to quickly determine which protocols a given chip will support.

32. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lund (USPN 7,006,452) in view of Applicant's admitted prior art as applied to claim 1 above, and further in view of Christensen et al. (USPN 7,035,249).

33. Regarding claim 3, Lund does not expressly disclose selecting a connection having a signal to noise ration that is within a predetermined range. Christensen teaches, in a DSL environment, having a DSLAM monitor the SNR on a connection to determine if the SNR is so poor as to require re-initialization (col. 3, lines 21-22, where SNR is measured, and col. 3, lines 46-54, where the DSLAM measures the connection to determine if conditions are so poor as to require re-initialization). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to select a connection with an SNR that is within a given range to ensure that the connection will have a quality sufficient to sustain communication.

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34. Claims 11, 13, 14, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund (USPN 7,006,452) as applied to claims 6 and 18 above, and further in view of Christensen et al. (USPN 7,035,249).

35. Regarding claim 11, Lund discloses that selecting one of the connections comprises selecting one of the connections having the fastest data transfer rate while having a signal to noise ratio (col. 6, lines 20-27, where a connection that is capable of communication will inherently have the fastest data transfer rate with respect to other connections that are not capable of communication and will inherently have an SNR). Lund does not expressly disclose selecting a connection with a SNR that is not less than a given amount. Christensen teaches, in a DSL environment, having a DSLAM monitor the SNR on a connection to determine if the SNR is so poor as to require re-initialization (col. 3, lines 21-22, where SNR is measured, and col. 3, lines 46-54, where the DSLAM measures the connection to determine if conditions are so poor as to require re-initialization). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to select a connection with an SNR that is not less than a given amount to ensure that the connection will have a quality sufficient to sustain communication.

Lund in view of Christensen does not expressly disclose that the signal to noise ratio is no less than six decibels; however, Lund in view of Christensen does disclose requiring that a connection have a sufficient SNR (Christensen: col. 3, lines 46-54, where the DSLAM measures the connection to determine if conditions are so poor as to require re-initialization). It is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value. The burden of showing criticality is on Applicant. In re Mason, 87 F.2d 370, 32

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USPQ 242 (CCPA 1937); Marconi Wireless Telegraph Co. v. U.S., 320 U.S. 1, 57 USPQ 471 (1943); In re Schneider, 148 F.2d 108, 65 USPQ 129 (CCPA 1945); In re Aller, 220 F.2d 454, 105 USPQ 233 (CCPA 1955); In re Saether, 492 F.2d 849, 181 USPQ 36 (CCPA 1974); In re Antonie, 559 F.2d 618, 195 USPQ 6 (CCPA 1977); In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Since Lund in view of Christensen discloses ensuring that a connection has a sufficient SNR, it would have been obvious to one of ordinary skill in the art at the time of the invention to require a connection to have a particular SNR, including no less than six decibels, absent a showing a criticality by Applicant.

36. Regarding claims 13 and 25, Lund discloses that selecting one of the connections comprises selecting one of the connections having a data transfer rate that is equal to or greater than a minimum data transfer rate (col. 6, lines 20-27, where a connection that is capable of communication will have a data transfer rate that is greater than a minimum data transfer rate and will have an SNR). Lund does not expressly disclose selecting a connection with a SNR that is in a given range. Christensen teaches, in a DSL environment, having a DSLAM monitor the SNR on a connection to determine if the SNR is so poor as to require re-initialization (col. 3, lines 21-22, where SNR is measured, and col. 3, lines 46-54, where the DSLAM measures the connection to determine if conditions are so poor as to require re-initialization). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to select a connection with an SNR that is within a given range to ensure that the connection will have a quality sufficient to sustain communication.

Lund in view of Christensen does not expressly disclose that the signal to noise ratio is within zero to nine decibels; however, Lund in view of Christensen does disclose requiring that a

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connection have a sufficient SNR (Christensen: col. 3, lines 46-54, where the DSLAM measures the connection to determine if conditions are so poor as to require re-initialization). It is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value. The burden of showing criticality is on Applicant. In re Mason, 87 F.2d 370, 32 USPQ 242 (CCPA 1937); Marconi Wireless Telegraph Co. v. U.S., 320 U.S. 1, 57 USPQ 471 (1943); In re Schneider, 148 F.2d 108, 65 USPQ 129 (CCPA 1945); In re Aller, 220 F.2d 454, 105 USPQ 233 (CCPA 1955); In re Saether, 492 F.2d 849, 181 USPQ 36 (CCPA 1974); In re Antonie, 559 F.2d 618, 195 USPQ 6 (CCPA 1977); In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Since Lund in view of Christensen discloses ensuring that a connection has a sufficient SNR, it would have been obvious to one of ordinary skill in the art at the time of the invention to have any SNR, including between zero and nine decibels, absent a showing a criticality by Applicant.

37. Regarding claims 14 and 26, Lund does not expressly disclose receiving an indication that a previously established digital subscriber line connection between the communications device and the digital subscriber line access multiplexer is unsatisfactory; and wherein the plurality of parameters are transmitted in response to receiving the indication. However, Lund does disclose re-initializing a connection after certain events, such as power-down (col. 5, line 63-col. 6, line 6). Christensen teaches, in a DSL environment, monitoring the conditions on a connection to determine if the conditions are so poor as to require re-initialization (col. 3, lines 46-54). This ensures that the connection will operate with ideal parameters even if conditions change (col. 1, lines 26-28, where conditions change, and col. 2, lines 48-50, where the



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connection is re-initialized to ensure that the connection has ideal parameters for a given set of conditions). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to receive an indication that a previously established digital subscriber line connection between the communications device and the digital subscriber line access multiplexer is unsatisfactory and, in response, to transmit the plurality of parameters since this ensures that the parameters on the connection are ideal for a given set of conditions.

***Allowable Subject Matter***

38. Claims 4, 10, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not disclose or fairly suggest that each parameter is transmitted as a part of a particular C-MSGs1 message. Rather, Lund discloses that each message is part of a particular protocol being tested (col. 6, lines 20-27).

***Conclusion***

39. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McElroy et al. (USPN 7,093,289) see entire document which pertains to configuring DSL devices. Hagler et al. (USPN 7,012,899) see entire document which pertains to auto-configuring a DSL modem.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel J. Ryman  
Examiner  
Art Unit 2616

*Daniel Ryman*